98TH CONGRESS
2d Session
HOUSE OF REPRESENTATIVES
REPT. 98-1142
Part 1

TEMPORARY SUSPENSION OF DEPORTATION OF EL SALVADOR REFUGEES

OCTOBER 4, 1984.—Ordered to be printed

Mr. MOAKLEY, from the Committee on Rules, submitted the following

REPORT

together with

MINORITY VIEWS

[To accompany H.R. 4447 which on November 17, 1983, was referred jointly to the Committee on Foreign Affairs, the Committee on the Judiciary, and the Committee on Rules]

[Including the cost estimate of the Congressional Budget Office]

The Committee on Rules, to whom was referred the bill (H.R. 4447) to provide for the temporary suspension of deportation for certain aliens who are nationals of El Salvador, and to provide for Presidential and congressional review of conditions in El Salvador, and for other purposes, having considered the same, reports thereon with an amendment and recommends that the bill as amended do pass.

AMENDMENT

The amendment (stated in terms of the page and line numbers of the bill as introduced and as reprinted on May 7, 1984, to reflect additional cosponsors) is as follows:

Page 3, strike out lines 15 through 19 and insert in lieu thereof the following:

> Sec. 2. Upon receipt of the report described in the first section of this Act, such report shall be referred, in accordance with the rules of each House, to the standing committee of each House of Congress having jurisdiction over the subjects of the report. Upon referral of such report but in

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no case later than two years after the date of enactment of this Act, each committee of the House of Representatives and the Senate to which the report has been referred shall conduct hearings, insofar as such committee has legislative or oversight jurisdiction, to consider * * *

EXPLANATION OF COMMITTEE AMENDMENT

Section 2 of the bill, as introduced, required the Committee on the Judiciary of each House of Congress to conduct hearings based on the report submitted to Congress pursuant to the first section of the bill. As a general practice, the committee does not favor dealing with matters related to the internal operations of each House in statute to any greater degree than absolutely necessary. The committee is also aware that other committees, particularly the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, might properly assert jurisdiction over aspects of the contemplated report.

As a result, the committee amendment assumes that the proper committees in each House will demonstrate jurisdiction by referral of the report. The committee further assumes that the committees to whom the report is referred will undertake hearings such as those contemplated by the bill. The committee believes that the section, as amended, is largely a restatement of the rules of each House and that hearings such as those contemplated under H.R. 4447 ordinarily would be held by the appropriate committees of Congress in carrying out their oversight responsibilities.

SUMMARY

The bill directs the President to investigate and report to the Congress within 18 months concerning the living conditions and available assistance for El Salvadorans displaced inside and outside their country, and requires such investigation to examine the fate of El Salvadorans deported from the United States. The bill, as amended, provides for the appropriate committees of each House to hold hearings within two years to consider appropriate U.S. steps to assure the personal safety and equitable distribution of assistance to such displaced El Salvadorans.

The bill also provides for three-year moratorium on specified categories of El Salvadoran deportations.

BASIS OF REPORTING

The committee is aware that the projected schedule for adjournment of the present Congress makes it unlikely that H.R. 4447 can be enacted this year. Nevertheless, the committee considers it appropriate to report this bill, and to urge the Administration to review its policy with respect to refugees from El Salvador.

The committee believes that a more humanitarian approach to the present situation, more consistent with the Nation's obligations under international law, by the Administration actually would be preferable to the enactment of any rigid legislative prescription.

The present legislation, however, has been prompted by the failure of the Administration to operate within the framework of con-

sultative shaping of foreign policy and refugee policy, and the inability of Congress to affect policy through the customary and more preferable "sense of Congress" legislation.

The committee is confident that a serious reappraisal of U.S. immigration policy with respect to refugees from El Salvador during the coming months could obviate the need to proceed in the next Congress with legislation of the type reported and strongly urges that such an effort be undertaken.

BACKGROUND

The United States does not afford any special immigration benefits to undocumented Salvadorans in this country, and they are liable for deportation to El Salvador if apprehended. In light of the civil strife in that country, the committee believes that Salvadorans generally should be granted some temporary relief from deportation.

The Administration's position has been that Salvadorans come to the United States illegally primarily for economic reasons, and that special protection by the United States delaying their return to El Salvador is not merited by conditions there. However, recent legislation has passed (Public Law 98-164) expressing the sense of Congress that extended voluntary departure be granted to nationals of El Salvador who were in the U.S. prior to January 1, 1983, with certain exceptions. The bill (H.R. 4447), and the companion Senate measure (S. 2131), have been introduced to implement that enacted policy, by providing for the temporary suspension of deportation of certain natives of El Salvador.

The number of Salvadorans residing illegally in the United States is unknown, and estimates range from 100,000 to 500,000. The undocumented Salvadorans, as with any alien who enters the United States without inspection and proper documents, are subject to deportation. Upon their apprehension by the Immigration and Naturalization Service (INS), the Salvadorans may choose to voluntarily return to El Salvador or, after proceedings before an immigration judge to determine deportability, may be forcibly returned there by the U.S. Government. Pending a decision on deportation, the Salvadorans have been detained unless they could post a bond ranging between $500 and $10,000.

Controversy has grown over the current U.S. policy to return undocumented Salvadorans to El Salvador, considering the civil unrest and violence there. Critics believe that these aliens are being exposed to danger and possibly death, and deserve the temporary protection of the United States until conditions change.

Various forms of temporary relief from deportation can be granted in circumstances in which aliens would be threatened with persecution upon return to a certain country. As a signatory to the United Nations Convention and Protocol Relating to the Status of Refugees, the United States agrees to the principle of nonrefoulement, which means that it will not return an alien to a country where his life or freedom would be threatened because of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.

Nonrefoulement is embodied in U.S. Immigration law, notably in provisions allowing individual aliens to apply for asylum in the United States (section 208 of the Immigration and Nationality Act; 8 U.S.C. 1158), and requiring the Attorney General to withhold the deportation of aliens to a country in which the alien's life or freedom would be threatened because of persecution (section 243(h) of the Immigration and Nationality Act; 8 U.S.C. 1253(h)). In order to benefit from these protections, an alien must prove to an INS District Director or to an immigration judge during immigration proceedings, that he or she would be singled out for persecution upon return to a given country. In judging the merits of the asylum claim, the immigration authorities rely on an advisory opinion from the Department of State based on an analysis of conditions in the country in question.

Aliens could also receive certain forms of administrative discretionary relief to allow them to stay in this country temporarily because of danger to civilians from armed hostilities. Discretionary relief could include a deferred action on the deportation, a stay of deportation, or an extension of a voluntary departure status. Upon the recommendations of the Department of State, INS is currently providing stay of deportation for Poles, who are unwilling to return to Poland because of conditions there, and who were in the United States as of December 23, 1981; and non-enforcement of departure for Ethiopians who arrived in the U.S. before June 30, 1980. Requests for extended voluntary departure for Afghans are being afforded a "sympathetic review." Blanket extended voluntary departure (EVD) has been granted in the past to nationals of several countries including Nicargua, Iran, and Uganda.

Although an extraordinary procedure under the immigration laws, the committee notes that EVD is not an uncommon action. The following is a list of recent exercises of the authority:

Cuba—1960 to 1966;
Dominican Republic—1966 to 1978;
Czechoslovakia—1968 to 1977;
Chile—1971 to 1977;
Cambodia—1975 to 1977;
Vietnam—1975 to 1977;
Laos—1975 to 1977;
Lebanon—1976 to present;
Ethiopia—1977 to present;
Uganda—1978 to present;
Iran—1979;
Nicaragua—1979 to 1980,
Afghanistan—1980 to present; and
Poland—1981 to present.

Refugees from El Salvador, who meet the narrower criteria of the Refugee Act of 1980, can be considered for asylum. However, to date, the Department of State has declined to make the findings that would permit nationals of El Salvador to qualify for EVD status.

The Administration does not support any general relief from deportation for undocumented Salvadorans on the grounds of the civil unrest in El Salvador. Individual Salvadorans may apply for asylum in the Unites States, and those requests are reviewed on a

case-by-case basis. In fiscal year 1983, 163 Salvadoran asylum requests were approved, and 6,576 were denied. At the end of fiscal year 1983, at least 13,800 Salvadoran asylum applications were pending. The Administration's position is that all EVD decisions require a balance of judgement regarding foreign policy, humanitarian, and immigration concerns (see statement of Assistant Secretary of State Elliott Abrams before House Judiciary Subcommittee on Immigration, Refugees and International Law, April 12, 1984). The State Department believes that while civil strife and violence in El Salvador are at "distressing levels," there has not been the widespread fighting, destruction and breakdown of public services and order that had been present in other situations when the U.S. granted blanket voluntary departure. The Department concludes that most Salvadorans present in the United States were not involved in political or military activities prior to their departure from El Salvador, and that there is no evidence that Salvadorans returned to El Salvador are subject to persecution.

INS has explained that an asylum claim is only aproved if an individual alien has a well-founded belief that if he or she returns to a country, he or she would be subject to persecution to which others in the country are not subjected.

The State Department believes that the primary motivation for the Salvadoran migration to the United States is economic. It points to the overpopulation and poverty in El Salvador, and the longstanding policy of that nation to encourage the emigration of their populace to relieve conditions. The Department points to the fact that most Salvadorans have traveled through third countries before reaching the United States, and that other countries closer to El Salvador have made refuge available to Salvadorans fleeing the turmoil in their country.

The Administration has also asserted that granting extended voluntary departure to Salvadorans would encourage the migration of many more aliens from that area.

Supporters of H.R. 4447 believe that the Salvadorans in the U.S. have something other than economic disadvantages to fear upon their return, and that they are entitled to humanitarian protection against such dangers. They believe that the Salvadorans are bona fide refugees who deserve this country's protection under international law as well as under our own Refugee Act. Whatever the initial motive for leaving El Salvador, they argue, the Salvadorans in the United States are likely to face real dangers upon return to their country. The widespread violence and indiscriminate killing of noncombatants in El Salvador is well-publicized. Private agencies in that country content that although specific documentation is lacking, the returnees' lives are in dangers. These agencies point out that in a civil war situation, both sides are suspicious of a national who has sought refuge abroad for whatever reason.

The Office of the United Nations High Commissioner for Refugees (UNHCR) reportedly sent two memoranda to the Reagan Administration—one in April, and one in June of 1981—requesting that the U.S. Government change its policy and grant some temporary refuge to undocumented Salvadorans. A recent UNHCR mission to monitor processing of Salvadorans in this country recommended that the UN agency:

> * * * continue to express its concern to the U.S. Government that its apparent failure to grant asylum to any significant number of Salvadorans, coupled with continuing large-scale forcible and voluntary return to El Salvador, would appear to represent a negation of its responsibilities assumed upon its adherence to the UN Refugee Protocol.

Critics of U.S. policy point out that this is the first time UNHCR has suggested the United States was failing to fulfill its international commitment to refugees.

Proponents of U.S. policy believe that the whole "refugee issue" is being manipulated by the leftists in El Salvador to embarrass the government.

Critics of the U.S. policy of not extending voluntary departure to Salvadorans believe that the policy is a result of U.S. support for the current government of El Salvador. They contend that if the United States were to grant widespread temporary refuge to Salvadorans here, this country would be admitting that the regime in El Salvador cannot maintain order or protect its citizens. Critics also contend that the large number of Salvadorans who would be affected also discourages the U.S. from granting extended voluntary departure.

About 70% of the Salvadorans apprehended by INS return to El Salvador under a "voluntary departure" agreement rather than a deportation order. Supporters of U.S. policy could argue that this indicates that Salvadorans generally do not fear for their lives upon return or they would at least attempt applications for asylum.

Critics claim that INS systematically takes actions to encourage the expeditious voluntary return of Salvadorans, and to discourage asylum applications. For example, the aliens reportedly are not being advised of their right to apply for asylum; INS' tough enforcement policy including high bonds, limited work authorization for those released on bond, lengthy waits for decisions on asylum claims, and limited access to counsel, all act to discourage Salvadorans from attempting to remain in the United States.

The UNHCR mission concluded that:

> * * * there is a systematic practice designed to forcibly return Salvadorans, irrespective of the merits of their asylum claims. At the same time, it is equally fair to say that INS does not seem to be practicing a discriminatory program against Salvadorans. The unfortunate situation is that Salvadorans are being treated like all other illegal entrants without taking into account the conditions prevailing in their country.

On April 30, 1982, a Los Angeles U.S. District Court judge issued a preliminary injunction against INS from certain practices against Salvadoran emigres and ordered INS to advise Salvadorans of their right to counsel, to a deportation hearing, and to apply for asylum.

In the 98th Congress, both the State Department authorization (P.L. 98-164) and the major immigration reform bill (H.R. 1510) included a provision stating the "sense of the Congress" that Salva-

dorans in the U.S. be granted extended voluntary departure until conditions in El Salvador permit their safe return to that country.

For a detailed discussion of the background of the issue, the committee would note *U.S. Policy Towards Undocumented Salvadorans,* Sharon Stephen, Education and Public Welfare Division, Congressional Research Service, Library of Congress (MB82223).

RELATED LEGISLATION

During the 98th Congress, nearly identical bills were introduced in the House (the pending measure, H.R. 4447) and in the Senate (S. 2131) to prohibit deporting or detaining natives of El Salvador during the 3-year period while the President and Congress investigate conditions in El Salvador.

In addition, there has been congressional action on two related matters:

H.R. 1510 (Mazzoli et al.)

Title IV of the Immigration Reform and Control Act of 1983, as reported by the Committee on the Judiciary, and as passed by the House on June 20, 1984, expresses the sense of the Congress that Salvadorans otherwise qualifying for voluntary departure under the Immigration and Nationality Act have the date of such departure extended to such time as the Secretary of State determines that the situation in El Salvador has changed sufficiently to permit their safe return. This matter is now pending in the conference on the companion Senate bill, S. 529.

Public Law 98–164

H.R. 2915, the State Department authorization contains (section 1012) language which expresses the sense of Congress that extended voluntary departure should be granted to nationals of El Salvador who were in the U.S. prior to Jan. 1, 1983, with certain exceptions for those who would be excludable for certain crimes, subversive activities, or other conditions harmful to society. The bill was introduced May 5, 1983 and referred to Committee on Foreign Affairs. It was reported (H. Rept. 98–130) May 15th and passed the House, amended, June 9, 1983. The bill was signed into law (Public Law 98–164) on November 22, 1983.

S. 2131 (Sen. DeConcini, et al.)

Provides for the temporary suspension of deportation of certain nationals of El Salvador and for Presidential and congressional review of conditions in El Salvador. Introduced November 17, 1983 and referred to the Committee on the Judiciary.

COMMITTEE CONSIDERATION

H.R. 4447 was introduced November 17, 1983 and was referred to the Committees on Foreign Affairs, Rules, and the Judiciary.

In the Judiciary Committee, the bill was referred November 22, 1983 to the Subcommittee on Immigration, Refugees, and International Law. The subcommittee held hearings on April 12, 1984. The subcommittee marked-up and ordered the bill reported to the full committee on October 3, 1984.

In the Foreign Affairs Committee, the bill was referred December 9, 1983 to the Subcommittees on International Operations, Human Rights and International Organizations, and Western Hemisphere Affairs.

In the Rules Committee the bill was referred February 1, 1984 to the Subcommittee on Rules of the House. The subcommittee held a hearing on June 20, 1984 to receive testimony from public witnesses and Administration representatives.

On October 3, 1984, in a full committee meeting, the subcommittee chairman (Mr. Moakley) moved to discharge the subcommittee from further consideration. The motion was adopted and the committee marked-up the bill and ordered it favorably reported with an amendment.

SCOPE OF REPORT

In addition to its well understood responsibility for resolutions relating to the order of business, the committee receives original referral of all bills and resolutions changing or affecting the rules of the House.

H.R. 4447, as introduced, contains provisions (section 2) directing certain action to be taken by committees of the House of Representatives and the Senate. The committee considers that matter to be a rule and asserts exclusive jurisdiction for that portion of the bill.

Although the bill was jointly referred without limitations, the committee asserts jurisdiction over those provisions touching on the rules and has confined its mark-up and reporting to that subject. Of course, the committee is obliged, in considering statutory rules, to investigate the broader legislative context in which those rules are proposed to operate. Therefore, the committee, particularly in subcommittee hearings, sought to undertake a broad investigation of the situation of Salvadoran refugees. However, in all other particulars of the bill not touching on the rules, the committee defers, without recommendation, to the report by the Committees on Foreign Affairs and the Judiciary.

ANALYSIS OF LEGISLATION

The bill, as amended, contains three sections as follows:

Administration study and report

The first section mandates an Administration study and a report to Congress within 18 months of enactment. The study would cover humanitarian concerns with respect to displaced civilians within El Salvador. It would also cover similar concerns with respect to displaced persons in third countries. The report would also review the condition and fate of Salvadorans who had been deported from the United States.

Congressional review

Section 2 requires studies and hearings by the appropriate committees of each House with respect to the matters covered by the report. The review would also cover appropriate steps to provide safe resettlement within El Salvador and third countries. The

study would also review the moratorium established by section 3 of the bill.

Temporary suspension of deportation

Section 3(a) prohibits deportation of certain nationals of El Salvador for a period of three years, except as the Congress may otherwise provide after its consideration of the President's report under the first section.

Section 3(b) identifies specific classes of deportable persons to whom the moratorium would apply. These classes are those under which undocumented aliens are generally excluded or deported, such as, because the aliens are not properly documented or are undocumented, or have entered the U.S. without inspection, or are unemployed or do not have labor certification. Persons subject to exclusion or deportation on all other grounds (such as mental illness, criminal conviction, immoral or illegal activities, and national security concerns) are excluded from the moratorium.

Finally, section 3(c) of the bill provides that in the case of any alien, whose deportation is temporarily suspended under subsection (a) the period of such suspension shall not be counted as a period of physical presence in the United States for purposes of section 244(a) of the Immigration and Nationality Act, which otherwise allows the Attorney General, subject to certain conditions, to suspend deportation of an alien who has been physically present in the United States for certain periods.

MATTERS REQUIRED UNDER THE RULES OF THE HOUSE

Committee vote

Clause 2(l)(2)(B) of rule XI requires each committee report to accompany any bill or resolution of a public character, ordered to be reported by a recorded vote, to include the total number of votes cast for and against the reporting of the measure.

H.R. 4447 was considered by the committee on October 3, 1984 and ordered reported favorably with an amendment by a voice vote.

Committee cost estimate

Clause 7(a) of rule XI requires that certain committee reports contain committee cost estimates.

That provision does not apply to the Committee on Rules, but the committee explores the cost implications of all measures it considers. The committee accepts the cost estimate prepared by the Congressional Budget Office, pursuant to section 403 of the Congressional Budget Act of 1974, and printed in this report, in compliance with clause 2(l)(3)(C) of rule XI.

It is assumed that the Administration study, mandated by the first section, and the congressional review of the study, mandated by section 2, would largely parallel ongoing foreign policy studies in both branches. So, only minor costs are anticipated.

Section 3 provides for suspension of certain deportations, and costs associated with that provision are difficult to quantify. The committee notes that estimates of cost must focus on a relatively small portion of the population to which section 3 applies. It is esti-

mated that the total Salvadoran population in the U.S. is between 300,000 and 500,000. However, because of limitations on the enforcement resources of INS, only a small portion of that population will be the subject of deportation proceedings, whether or not H.R. 4447 is enacted. INS statistics indicate that only 2,118 Salvadorans were sent back to El Salvador under formal orders of deportation, during fiscal year 1982.

Congressional Budget Office estimates

Clause 2(l)(3)(B) of rule XI requires that each committee report contain any statement required by section 308(a) of the Congressional Budget Act of 1974.

That section does not apply to this bill.

Clause 2(l)(3)(C) of rule XI requires that each committee report contain any cost estimate and comparison prepared by the Congressional Budget Office pursuant to section 403 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 19, 1984.

Hon. JOHN JOSEPH MOAKLEY,
Chairman, Subcommittee on Rules of the House, Committee on Rules, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: At your request, the Congressional Budget Office has reviewed H.R. 4447, a bill to provide for the temporary suspension of deportation for certain aliens who are nationals of El Salvador, and for other purposes, as introduced and referred to the House Committee on Rules, November 17, 1983. We expect that enactment of this bill would result in no significant net cost to the federal government, or to state and local governments.

H.R. 4447 requires the President to report to the Congress within 18 months after the enactment date regarding displaced persons in El Salvador, Salvadoran nationals who are displaced persons outside El Salvador, and the conditions and fates of aliens deported from the United States to El Salvador. The bill states that during the three-year period beginning on the enactment date, the Attorney General shall not detain or deport to El Salvador aliens who are nationals of El Salvador and eligible to be deported under certain sections of the Immigration and Nationality Act. Within two years of the enactment date, the Congress is to conduct hearings to determine whether to extend, remove, or alter the restrictions on deportation established by the bill.

Both savings and costs to the federal government would result from the enactment of this bill. The savings would stem from a reduction in the expenses associated with detainment and deportation. In each of the fiscal years 1982 and 1983, the INS paid approximately $1.4 million in expenses for the deportation and voluntary departure from the United States to El Salvador of approximately 4,600 aliens, in addition to the costs for deportation hearings. Most of such costs would not be incurred during the three years after enactment of this bill.

On the other hand, the required Administration study and Congressional review will result in some costs. However, related stud-

ies are being undertaken in any event, and few additional costs are likely to result in this area. It is also possible that enactment of this bill could result in an added influx of Salvadorans into the United States; however, it is uncertain whether this would occur, and it is unlikely that any significant budget impact would result. Considering both savings and costs, we do not expect this bill to have any significant impact on the federal budget.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ERIC HANUSHER
(For Rudolph G. Penner, Director).

Inflation impact statement

Clause 2(l)(4) of rule XI requires that each committee report contain a statement relating to the inflationary impact of the enactment of that measure.

The committee is aware of none. The committee would refer to its statement under the section of this report entitled "Scope of Report" and defers, on this matter, to the report to accompany the measure of the Committee on Foreign Affairs and the Judiciary.

Oversight findings

Clause 2(l)(3)(A) of rule XI requires that each committee report contain oversight findings and recommendations required pursuant to clause 2(b)(1) of rule X.

The committee notes that, under the rules of the House, oversight responsibility with regard to immigration and foreign policy matters covered in the bill is vested in the Committee on Foreign Affairs and the Judiciary. The committee would refer to its statement under the section of this report entitled "Scope of Report" and defers, on this matter, to the report to accompany the measure made by the committees.

The committee, however, does exercise oversight for the rules of the House and the operation of the legislative process.

In this regard, the committee expresses its concern that the consultative nature of relations between the Executive and the Congress in shaping foreign and immigration policy is significantly undermined by the Administration's casual attitude toward "sense of the Congress" language included in legislation.

Specifically, in the matter of the pending legislation, the committee would note that H.R. 2915, the State Department authorization (Public Law 98-164), signed November 22, 1983, contains a provision (section 1012) which expresses the sense of Congress that extended voluntary departure should be granted to nationals of El Salvador who were in the U.S. prior to January 1, 1983, with certain exceptions for those who would be excludable for certain crimes, subversive activities, or other conditions harmful to society.

In testimony before Subcommittee on Rules of the House on June 20, 1984, Assistant Secretary of State Elliott Abrams was asked about such provisions and stated, "Well, we do not enforce them if we have a strong policy disagreement."

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This approach is regrettable and undermines a device that Presidents and the Congress have both found convenient to deal with situations which require flexibility.

"Sense of the Congress" language is used, in cases like the present matter because of the difficulty of establishing a general legislative policy that can be applied with common-sense and fairness to a large, diverse population. But, the President, in signing such a provision into law, becomes a party to the language, as a matter of law.

If the President agrees with the policy, he can sign and implement the law. If he has reservations, the entire purpose of using that kind of language is to provide the flexibility within which the two branches can negotiate policy judgments.

But, to sign into law a policy statement, with which he does not agree, with the clear advance intention to ignore it, is inappropriate, and invites stalemate in relations between the two branches.

Oversight findings and recommendations of the Committee on Government Operations

Clause 2(l)(3)(D) of rule XI requires that each committee report contain any oversight findings and recommendations made by the Committee on Government Operations pursuant to clause 4(c)(2) of rule X.

The rule is inapplicable since no such findings and recommendations have been received.

Advisory Committees

Section 5(b) of the Federal Advisory Committees Act (Public Law 92–463), enacted as an exercise of the rulemaking power of the House, requires the report accompanying any bill or joint resolution to contain certain findings of the committee with respect to any advisory committee established by the legislation.

H.R. 4447 creates no advisory committee, within the meaning of the rule.

Comparative print

Clause 4(d) of rule XI requires reports from the Committee on Rules, on resolutions amending the Rules of the House of Representatives, to contain a comparative print indicating changes in the existing rules.

Although the bill, as introduced, would make changes in the rules of the House, it would do so in a bill and in a manner that does not directly amend the Rules of the House of Representatives. The nature of these rules is discussed in detail in the portion of this report entitled "Explanation of Committee Amendment" and the committee believes that discussion adequately meets the informational needs contemplated by clause 4(d) of rule XI.

Changes in existing laws made by the bill, as reported

Clause 3 of rule XIII, the "Ramseyer rule," requires the report of each committe on a bill or joint resolution which repeals or amends existing law to contain a comparative print showing the changes made by the bill as reported.

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The rule is inapplicable since H.R. 4447, as reported, does not amend or repeal existing law. However, it does change the application of existing law to the subject population. These changes are discussed at length in the portion of this report entitled "Analysis of Legislation."

Views of Committee Members

Clause 2(l)(5) of rule XI requires each committee to afford a three day opportunity for members of the committee to file additional, minority, or dissenting views and to include the views in its report.

Although neither requirement applies to the committee, it always makes the maximum effort to provide its members with such an opportunity.

MINORITY VIEWS

These views are intended to make it clear to our House colleagues that the Committee on Rules does not make any recommendation regarding the substantive content of this legislation.

Since a quick reading of the committee report might lead to a far different conclusion, we point out that the jurisdiction of the Committee on Rules is limited solely to Section 2 of the bill. Although the act of reporting carries with it a recommendation that the bill as amended by the committee "do pass", the committee made no judgment as to the merits of the legislation during our mark-up on October 3, 1984.

As introduced, Section 2 of H.R. 4447 required the Committee on the Judiciary to conduct hearings based upon a report that would be required of the President within 18 months. The report is to cover humanitarian concerns with respect to displaced civilians in El Salvador; to review appropriate steps to provide safe resettlement of refugees within El Salvador; and to review the effect, to date, of a three-year moratorium on deportation of El Salvadoran nationals.

Whether there should be a three-year moratorium on the deportation of El Salvadoran nationals, whether there should be a report required from the President, as well as the content of such a report, are all policy questions that are not within the jurisdiction of the Committee on Rules and the committee made no judgment as to the merits of the legislation during its mark-up on October 3, 1984.

AMENDMENT TO SECTION 2

The wording of Section 2, as introduced, had the effect of changing the Rules of the House by requiring a specific committee to conduct hearings. We agree that it would be bad precedent for us to limit, by law, the referral of such a report to a specific committee.

For this reason, we did not oppose the amendment offered by Mr. Moakley to provide for referral of a report to a committee of jurisdiction in the normal manner. Unfortunately, the amendment did not go far enough, because it would still *require* a committee of jurisdiction to conduct hearings.

We believe this mandate intrudes into the internal operations and practices of the legislative committees, who should always retain the prerogative to establish their own oversight and legislative agendas from year to year.

OTHER MATTERS

The committee report indicates that it urges the Administration to review its policy with respect to refugees from El Salvador. Ad-

ministration witnesses, including Assistant Secretary of State Elliott Abrams and Immigration and Naturalization Commissioner Alan C. Nelson, testified before the Subcommittee on Rules of the House that the Administration's policy toward these refugees is no different than its policy toward other refugees.

That policy, carried out by the Attorney General pursuant to the Refugee Act, is to consider and make decisions on asylum applications on a case-by-case basis instead of a nation-by-nation basis. If the provisions of this bill were to become law, it would create a special class of refugees from El Salvador by suspending deportation of certain nationals for a period of up to three years.

In view of the fact the Committee on Rules has no jurisdiction over this issue, we can only wonder why such a broad statement urging the Administration to review its policy is contained in our report.

The committee report also discusses its "belief" that Salvadorans generally should be granted some temporary relief from deportation. Here again, the committee did not consider the merits of this policy issue, because the issue is properly within the jurisdiction of other committees.

One final word needs to be repeated. In discussing the scope of the committee report, the majority points out that the Committee on Rules "defers, without recommendation" to the report by the Committee on Foreign Affairs and the Judiciary with regard to "all other particulars" of the bill not touching upon the Rules of the House.

Since this bill will not be acted upon by the House prior to adjournment of the 98th Congress, we offer these views in the hope that our colleagues will understand that the Committee on Rules is not setting itself up to make a judgment on the merits of this legislation.

JAMES H. QUILLEN.
DELBERT LATTA.
TRENT LOTT.
GENE TAYLOR.

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